



EUROPEAN COMMISSION

Brussels, 30.4.2015
C(2015) 2830 final

Subject: State aid – Estonia
SA.41173 (2015/N)
Support for training of advisors – Measure 2.3 in Estonian Rural Development Programme

Madam,

The European Commission ("the Commission") wishes to inform Estonia that, having examined the information supplied by your authorities on the State aid scheme referred to above, it has decided not to raise any objections to the relevant scheme as it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union ("TFEU").

The Commission has based its decision on the following considerations:

1. PROCEDURE

- (1) Estonia pre-notified the Commission of the above mentioned aid scheme by letter of 6 March 2015, registered by the Commission on 9 March 2015. By letter of 24 March 2015, registered by the Commission on the same day, Estonia notified the aid scheme according to Article 108(3) TFEU.

2. DESCRIPTION

2.1. Title

- (2) Support for training of advisors

2.2. Objective

- (3) With the present notification the Estonian authorities wish to support the training of advisors.

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2.3. Legal basis

- (4) The legal basis is:
 - (a) *Euroopa Liidu ühise põllumajanduspoliitika rakendamise seadus;*
 - (b) *Põllumajandusministri määruse eelnõu "Nõustajate koolitamise toetuse saamise nõuded ja toetuse saaja hindamiskriteeriumid".*

2.4. Duration

- (5) From 1 May 2015 to 31 December 2021.

2.5. Budget

- (6) The estimated annual budget is EUR 60 000 and the overall amount foreseen for the notified measure for the period 2015-2021 is EUR 400 000 (of which 85% shall be financed from the European Agricultural Fund for Rural Development (EAFRD) resources and 15% from the State budget).

2.6. Beneficiaries

- (7) Advisory bodies providing advisory services in agricultural sector, in forestry sector and in rural areas.
- (8) The scheme is limited to small and medium-sized undertakings.

2.7. Description of the aid scheme

- (9) The Estonian authorities have confirmed that the notified aid scheme would be used only in conjunction with EAFRD co-financing for measure 2.3 within the Estonian Rural Development Programme (RDP). Therefore, the aim of the notified scheme is to provide a legal basis for implementing measure 2.3 of the Estonian RDP.
- (10) To be eligible for aid, the participant in the training has to be
 - (a) an advisor with a valid certification;
 - (b) an advisor whose certification expired within last 12 months; or
 - (c) an advisor who has a contract with recognised provider of advisory services and is offering advice related to agriculture and rural development.
- (11) The Estonian authorities have assured that the supported trainings will be open also for other participants; however, they are not eligible to receive support and need to bear the costs themselves.
- (12) The aid will be granted to beneficiaries as subsidised services. The service providers, i.e. the trainers of advisors are chosen by a public procurement procedure organised by the national paying agency (Estonian Agricultural Registers and Information Board).

- (13) The following training providers are eligible to take part of the public procurement procedure:
- (a) public universities;
 - (b) vocational education institutions;
 - (c) recognised providers of advisory services.
- (14) The proposed training shall follow the curriculum established by the Ministry of Agriculture and the national law on vocational training. When assessing the proposals, the previous experience of the training provider and its staff on the relevant subject will be taken into account.
- (15) Costs eligible for aid under this scheme are the costs of organising and delivering the trainings (incl. salaries, materials prepared for the training, costs related to the place where the training is delivered) and the costs for travel, accommodation and per diem expenses of participants.
- (16) The aid will be up to 100% of the eligible costs; however, the Estonian authorities have assured that the aid is limited to EUR 200 000 per three years per beneficiary.

2.8. Cumulation

- (17) The Estonian authorities have confirmed that the aid cannot be cumulated with aid received from other local, regional, national or Union schemes to cover the same eligible costs.

2.9. Other commitments

- (18) The Estonian authorities confirmed that the aid would not apply to undertakings in difficulty within the meaning of point 35(15) of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020 ("the Guidelines")¹.
- (19) The Estonian authorities committed to suspend the payment of the aid if the beneficiary still has at its disposal an earlier unlawful aid that was declared incompatible by a Commission decision (either concerning an individual aid or an aid scheme), until that beneficiary has reimbursed or paid into a blocked account the total amount of the unlawful and incompatible aid including the corresponding recovery interest.
- (20) The Estonian authorities have confirmed that beneficiaries have to provide an application including the information required in point 71 of the Guidelines before participating in the training.
- (21) The Estonian authorities made a commitment to publish the information required under point 128 of the Guidelines by the deadline set in point 131 of the Guidelines. Concerning publishing the individual aid awards the Estonian authorities have decided to make use of the exception described in point 130 of the Guidelines.

¹ OJ C 204, 1.7.2014, p. 1.

3. ASSESSMENT

3.1. Existence of aid - Application of Article 107(1) TFEU

- (22) For Article 107(1) TFEU to apply, the scheme must provide an economic benefit to an undertaking which it would not have received in its normal course of business, the aid must be granted to certain undertakings, the benefit must be granted by a Member State or through State resources and the scheme must be capable of affecting trade perceptibly between Member States.
- (23) It is clear that the scheme in question confers an advantage on its recipients. It allows selected undertakings to be relieved, by means of State and EAFRD resources, of a part of their costs regarding financing the trainings which they would normally have to bear themselves. According to the case law of the Court of Justice, the mere fact that the competitive position of an undertaking is strengthened compared to other competing undertakings, by giving it an economic benefit which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition.²
- (24) Pursuant to the case law of the Court of Justice, aid to an undertaking appears to affect trade between Member States where that undertaking operates in a market open to intra-EU trade.³ Since the beneficiaries of aid operate in the sector of consultancy services, which is, at least potentially, subject to intra-EU trade, this support is likely to affect trade between Member States.
- (25) In light of the above, the conditions of Article 107(1) of the TFEU are fulfilled. It can therefore be concluded that the proposed scheme constitutes State aid within the meaning of that Article. The aid may only be considered compatible with the common market if it can benefit from one of the derogations provided for in the TFEU.

3.2. Lawfulness of the aid – Application of Article 108(3) TFEU

- (26) The aid scheme was notified to the Commission on 24 March 2015. It has not been implemented before. Therefore, Estonia has complied with its obligation under Article 108(3) TFEU.

3.3. Compatibility of the aid

3.3.1. Application of Article 107(3)(c) TFEU

- (27) Under Article 107(3)(c) TFEU, an aid may be considered compatible with the internal market, if it is found to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (28) For this derogation to be applicable, the aid must fulfil the requirements of the relevant Union State aid legislation.

² Judgment of the Court of 17 September 1980 in Case 730/79 *Philip Morris Holland BV v Commission of the European Communities* [1980] ECR 2671.

³ See in particular the judgment of the Court of 13 July 1988 in Case 102/87 *French Republic v Commission of the European Communities* [1988] ECR 4067.

- (29) As far as aid in rural areas co-financed by the EAFRD is concerned the Guidelines apply.
- (30) As regards the notified aid scheme, Section 3.6 of Part II of the Guidelines is applicable.
- (31) It follows from point 669 of the Guidelines that the Commission will declare State aid for knowledge transfer and information actions in rural areas compatible with the internal market under Article 107(3)(c) TFEU if it complies with the common assessment principles of the Guidelines, with the common provisions applicable to Chapter 3 of Part II of the Guidelines and with specific requirements laid down in Section 3.6 of Chapter 3 of Part II of the Guidelines.

3.3.2. Conditions set out in Section 3.6 of Part II of the Guidelines

- (32) Point 670 of the Guidelines states aid under this measure may be granted for the training of advisors linked to the advisory services referred to in Sections 1.1.10.2, 2.5 and 3.7 of Part II of the Guidelines. These Sections specify the rules for advisory services in agricultural sector, in forestry sector and in rural areas. It is evident from recital (7) that this requirement is fulfilled.
- (33) Point 671 of the Guidelines allows aid for the training of advisors to be granted also in favour of large companies. The Estonian authorities have assured that only small and medium-sized enterprises may benefit from the aid (cf. recital (8)).
- (34) Point 672 of the Guidelines specifies the eligible costs; aid may be granted for (a) the costs of organising and delivering the training, and (c) the costs for travel, accommodation and per diem expenses of the participants. It is evident from recital (15) that the eligible costs of the notified scheme are in line with the requirements of point 672 of the Guidelines.
- (35) According to point 673 of the Guidelines the aid must be paid to the provider of training. The Estonian authorities have specified that the aid is paid as subsidised services (cf. recital (12)); therefore this requirement may be considered as fulfilled.
- (36) Point 674 of the Guidelines requires the aid to be accessible to all those eligible undertakings active in the rural area concerned, based on objectively defined conditions. The Estonian authorities have specified three objective categories of eligible beneficiaries (cf. recital (10)); therefore this requirement may be considered as fulfilled.
- (37) Point 675 of the Guidelines requires that the bodies providing trainings have the appropriate capacities in the form of staff qualifications and regular training to carry out this task. According to Estonian authorities this requirement is satisfied as only objectively defined educational bodies may participate in the public procurement procedure (cf. recital (13)) and in the assessment of proposals the previous experience of the training provider and its staff will be taken into account (cf. recital (14)). The Commission finds this explanation sufficient.
- (38) Point 676 of the Guidelines limits the aid for training of advisors to EUR 200 000 per three years. It is evident from recital (16) that this requirement is fulfilled.

- (39) On the basis of the above, the Commission concludes that the conditions in Section 3.6 of Part II of the Guidelines are fulfilled.

3.3.3. Common provisions applicable to Chapter 3 of Part II of the Guidelines

- (40) Point 631 of the Guidelines requires the aid under Chapter 3 of Part II of the Guidelines to be granted in the framework of a rural development programme pursuant to and in conformity with Regulation (EU) No 1305/2013⁴. The Commission approved Estonian RDP by its implementing decision C(2015)382 of 13 February 2015. The intention of Estonian authorities to grant aid in the framework of Estonian RDP is evident from recital (9); therefore this requirement is considered complied with.
- (41) Other common provisions applicable to Chapter 3 of Part II of the Guidelines are not relevant for the case at hand.
- (42) Therefore it may be concluded that the notified aid scheme complies with the common provisions applicable to Chapter 3 of Part II of the Guidelines.

3.3.4. Common assessment principles

- (43) According to points 38, 42 and 669 of the Guidelines, the common assessment principles apply to aid granted in accordance with Article 107(3)(c) TFEU.
- (44) As said in recital (3), the objective of the present notified scheme is to support the training of advisors. The notified aid scheme contributes to a common objective in line with points 43 and 44 of the Guidelines. The notified scheme would be used only in conjunction with EAFRD co-financing for measure 2.3 within the Estonian RDP. In accordance with point 46 of the Guidelines the Commission therefore considers that such aid is consistent with and contributing to the objectives of rural development.
- (45) Taking into account the objective of the notified aid scheme, no negative impact on the environment within the meaning of point 52 of the Guidelines has been identified.
- (46) Since the notified scheme fulfils the specific conditions laid down in Section 3.6 of Part II of the Guidelines (cf. recital 39)) and complies with the common provisions applicable to Chapter 3 of Part II of the Guidelines (cf. recital 42)), the Commission considers, in line with points 55 and 57 of the Guidelines, respectively, that the aid is necessary and that it is an appropriate instrument to address the objective of common interest.
- (47) According to points 70 and 71 of the Guidelines, the project should not start prior to the aid application and this application has to include at least the name of the applicant, its size, description of the aided activity with the dates and amount needed to carry it out and the eligible costs. It is evident from recital (20) that this requirement is fulfilled.

⁴ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

- (48) As described above (cf. recitals (34) and (38)), the eligible costs and maximum aid amount respect the requirements of Section 3.6 of Part II of the Guidelines and thus, are in line with point 84 of the Guidelines. On this basis, the criterion of proportionality is deemed to be fulfilled.
- (49) Since the present scheme fulfils the conditions laid down in Section 3.6 of Part II of the Guidelines (cf. recital (39)) and does not exceed the relevant maximum aid amount (cf. recital (38)), the Commission considers, in line with point 113 of the Guidelines, that the negative effect on competition and trade is limited to the minimum
- (50) Points 128 to 132 of the Guidelines set out the transparency requirements under the Guidelines. Estonia made a commitment to comply with these requirements (cf. recital (21)).

3.3.5. Other commitments

- (51) The Commission notes that undertakings in difficulty are excluded from any support in line with point 26 of the Guidelines (cf. recital (18)) and that Estonia will suspend the payment of the notified aid if the beneficiary still has at its disposal an earlier unlawful aid that was declared incompatible by a Commission decision in line with point 27 of the Guidelines (cf. recital (19)).

3.3.6. Duration of the aid scheme

- (52) Pursuant to point 719 of the Guidelines, the Commission only authorizes schemes of limited duration. Schemes covering State aid for measures that can also benefit from EAFRD co-financing under Regulation (EU) No 1305/2013 should be limited to the duration of the programming period 2014-2020. In accordance with Article 65(2) of Regulation (EU) 1303/2013⁵ the expenditure is eligible for EAFRD support if the relevant aid is paid by the paying agency before 31 December 2023. The notified scheme will apply until 31 December 2021 (cf. recital (5)) and therefore it may be deemed to respect the eligibility of expenditure of programming period 2014-2020.

4. CONCLUSION

In line with the foregoing, the Commission considers that the relevant provisions of the Guidelines are complied with.

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) TFEU.

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy and should not be published,

⁵ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

please inform the Commission within fifteen working days of notification of this letter. If the Commission does not receive a reasoned request by that deadline Estonia will be deemed to agree to the publication of the full text of this letter. If Estonia wishes certain information to be covered by the obligation of professional secrecy please indicate the parts and provide a justification in respect of each part for which non-disclosure is requested.

Your request should be sent electronically via the secured e-mail system Public Key Infrastructure (PKI) in accordance with Article 3(4) of Commission Regulation (EC) No 794/2004⁶, to the following address: agri-state-aids-notifications@ec.europa.eu.

For the Commission

Phil HOGAN
Member of the Commission

⁶ Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30.4.2004, p. 1).